

April 8, 2003  
DECISION AND ORDER  
OF THE DEPARTMENT OF ENERGY

Appeal

Name of Petitioner: Ms. Doris M. Harthun

Date of Filing: January 7, 2003

Case Number: TFA-0015

On January 7, 2003, Doris M. Harthun (Harthun) filed an Appeal from a determination issued to her in response to a request for documents concerning her husband, Earl W. Thurk, that Harthun submitted under the Freedom of Information Act, 5 U.S.C. § 552a, as implemented by the Department of Energy (DOE) in 10 C.F.R. Part 1004. The determination was issued on December 13, 2002, by the Richland Operations Office (Richland). This Appeal, if granted, would require that Richland perform an additional search.

I. Background

Ms. Harthun requested information regarding the employment, medical and radiation exposure records for her deceased husband, Earl W. Thurk. In her request, Ms. Harthun indicated that her husband worked for E.I. duPont de Nemours Company in the 1940's. Richland conducted a search by name and Social Security number for responsive material, but was unable to locate any employment or medical records for Earl W. Thurk. As a result, Richland denied the request, and Ms. Harthun filed this Appeal.

II. Analysis

In responding to a request for information filed under the FOIA, it is well established that an agency must "conduct a search reasonably calculated to uncover all relevant documents." *Truitt v. United States Department of State*, 897 F.2d 540, 542 (D.C. Cir. 1990). "The standard of reasonableness which we apply to agency search procedures does not require absolute exhaustion of the files; instead, it requires a search reasonably calculated to uncover the sought materials." *Miller v. United States Department of State*, 779 F.2d 1378, 1384-85 (8th Cir. 1985); *accord Truitt*, 897 F.2d at 542. We have not hesitated to remand a case where it is evident that the search conducted was in fact inadequate. *See, e.g., Glen Milner*, 17 DOE ¶ 80,102 (1988).

We contacted Richland to ascertain the scope of the search. When Richland received Ms. Harthun's request, it faxed the request, along with Mr. Thurk's death certificate, to the Hanford Environmental Health Foundation (HEHF), which maintains all occupational health records for the Hanford Site, including pre-employment physicals, exit exams, and first aid treatments. HEHF searched but found no responsive material. Richland informed Ms. Harthun that employment, medical and radiation exposure records of individuals whose employment terminated during the Hanford-DuPont contracting period (1943-1946) or who left Hanford and continued their employment with DuPont at the end of the contracting period were archived with DuPont and have subsequently been destroyed. *See* Determination Letter. Richland referred Ms. Harthun to the organization that maintains DuPont's historical records to obtain more detailed information. In addition, Richland indicated that it conducted a search of its own radiation exposure records by name and Social Security number, but located no responsive material. Based on the information above, we find that Richland has conducted a search reasonably calculated to uncover any records relating to Earl W. Thurk. Accordingly, this Appeal should be denied.

It Is Therefore Ordered That:

- (1) The Freedom of Information Act Appeal filed by Doris M. Harthun on January 7, 2003, OHA Case No. TFA-0015, is hereby denied.
- (2) This is a final Order of the Department of Energy from which any aggrieved party may seek judicial review pursuant to the provisions of 5 U.S.C. § 552(a)(4)(B). Judicial review may be sought in the district in which the requester resides or has a principal place of business, or in which the agency records are situated, or in the District of Columbia.

George B. Breznay  
Director  
Office of Hearings and Appeals

Date: April 8, 2003